

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to adopt the rule cited as 10A NCAC 09 .1706; amend the rules cited as 10A NCAC 09 .0102, .0714, .0901-.0902, .1702, .1718; and repeal the rules cited as 10A NCAC 09 .1501-.1504, and .1506.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://ncchildcare.dhhs.state.nc.us/general/whatsnew.asp>

Proposed Effective Date: July 1, 2012

Public Hearing:

Date: February 28, 2012

Time: 1:30 p.m.

Location: Division of Child Development and Early Education, 319 Chapanoke Road, Suite 120, Room 300, Raleigh, NC

Reason for Proposed Action:

10A NCAC 09 .0714 – Amendments to this rule will establish guidelines for staff to use when supervising children indoors or outdoors while they are in child care. Staff must know where children are at all times and be able to hear and see them. Also a provision from the Americans with Disabilities Act (ADA) will be added for individuals with a disability who are seeking employment in child care.

10A NCAC 09 .0901, .0902, .1702, .1706, .1718 – Proposed amendments to these rules are in accordance with the S.L. 2010-117 to improve the nutrition standards in child care facilities by limiting certain foods (i.e. juice) or prohibits providing some at all (i.e. soda, flavored milk). Meeting these requirements will continue to allow for providers to participate in the Child and Adult Care Food Program and be reimbursed as they have been historically.

10A NCAC 09 .0102, .1501, .1502, .1503, .1504, .1506 – As part of the Governor's RIMP report, rules regarding temporary care were identified as being unnecessary. Rules .1501, .1502, .1503, .1504 and .1506 are proposed for repeal. Also the definition of temporary care in Rule .0102(32) will be deleted.

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing to Dedra Alston, Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC 27699-2201; or by email to Dedra.Alston@dhhs.nc.gov by April 2, 2012.

Comments may be submitted to: Dedra Alston, Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC 27699-2201; phone (919) 890-7060; fax (919) 662-4543; email Dedra.Alston@dhhs.nc.gov

Comment period ends: April 2, 2012

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
Date submitted to OSBM:
- Substantial economic impact (\geq \$500,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 09 - CHILD CARE RULES

SECTION .0100 - DEFINITIONS

Note: Text shown in *Italics* has been approved by the RRC and is pending Legislative review.

10A NCAC 09 .0102 DEFINITIONS

The terms and phrases used in this Chapter are defined as follows except when the ~~intent~~ context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child ~~Development,~~ Development and Early Education, Department of Health and Human Services located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.
- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project. Other training shall be approved as equivalent if the Division determines that the content of the training offered is substantially equivalent to the BSAC training.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2(a)(2)a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel, and drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (8) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (9) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (10) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ~~(11)~~ (11) "Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- ~~(12)~~ (12) "Family Child Care Environment Rating Scale - Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ~~(13)~~ (13) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- ~~(14)~~ (14) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.
- ~~(15)~~ (15) "Health care professional" means:
 - (a) a physician licensed in North Carolina;
 - (b) a nurse practitioner approved to practice in North Carolina;
 - (c) a licensed physician assistant.
- ~~(16)~~ (16) "Household member" means a person who resides in a family home as evidenced by factors ~~including,~~ including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- ~~(17)~~ (17) "If weather conditions permit" means:
 - (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>, and is incorporated by reference and includes subsequent editions and amendments;
 - (b) ~~following the air quality standards as set out in 15A NCAC 18A .2832(d), healthy air quality as forecast by the Department of Environment and Natural Resources' Air Quality Forecasts and Information web page.~~ The Air Quality Color Guide can be found on the Division's web site at <http://xapps.enr.state.nc.us/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
 - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- ~~(18)~~ (18) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a

child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(18)~~(19) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger.

~~(19)~~(20) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.

~~(20)~~(21) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales: the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010 or the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings.

~~(20)~~~~(21)~~(22) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College, and standards found in the North Carolina Early Childhood Instructor Manual (published by the NC Community College System Office). These standards are incorporated by reference and include subsequent amendments. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.

~~(21)~~~~(22)~~(23) "Owner" means any person with a five percent or greater equity interest in a child care facility, ~~however, however~~ stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 and G.S. 110-91(8) unless they are involved in day-to-day operations of the child care facility; a child care provider.

~~(22)~~~~(23)~~(24) "Parent" means a child's parent, legal guardian, or full-time custodian.

~~(23)~~~~(24)~~(25) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.

~~(24)~~~~(25)~~(26) "Passageway" means a hall or corridor.

~~(25)~~~~(26)~~(27) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.

~~(26)~~~~(27)~~(28) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.

~~(27)~~~~(28)~~(29) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(28)~~~~(29)~~(30) "School-age child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.

~~(29)~~~~(30)~~(31) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

~~(30)~~~~(31)~~(32) "Section" means Division of Child ~~Development.~~ Development and Early Education.

~~(31)~~~~(32)~~(33) "Substitute" means any person who ~~temporarily~~ assumes the duties of a staff person for a time period not to exceed two consecutive months.

~~(32)~~~~(33)~~(34) "~~Temporary care~~" means any child care arrangement which provides either drop in care or care on a seasonal or other part-time basis and is required to be regulated pursuant to G.S. 110-86.

~~(33)~~~~(34)~~~~(35)~~(34) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.

~~(34)~~~~(35)~~~~(36)~~(35) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

Authority G.S. 110-85; 110-88; 143B-168.3.

SECTION .0700 - HEALTH AND OTHER STANDARDS FOR CENTER STAFF

10A NCAC 09 .0714 OTHER STAFFING REQUIREMENTS

(a) Each child care center shall have an administrator on site on a regular basis. The administrator shall be responsible for monitoring the program and overseeing administrative duties of the center. This requirement may be met by having one or more persons on site who meet the requirements for an administrator according to the licensed capacity of the center. The following hourly requirements are based on an

administrator's normal working schedule and may include times when the administrator may be off site due to administrative duties, illness, or vacation.

- (1) Each center with a licensed capacity of less than 30 children shall have an administrator on site for at least 20 hours per week.
- (2) Each center with a licensed capacity of 30 to 79 children shall have an administrator on site for at least 25 hours per week.
- (3) Each center with a licensed capacity of 80 to 199 children shall have an administrator on site for at least 30 hours per week.
- (4) Each center with a licensed capacity of 200 or more children shall have an administrator on site for at least 40 hours per week.

(b) At least one person who meets the requirements for an administrator or lead teacher as set forth in this Section shall be on site during the center's operating hours except that a person who is at least 18 years old with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a child care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than 10 children are present.
- (2) The staff person has worked in that center for at least three months.
- (3) The staff person knows and can apply the center's operating policies and emergency procedures.

(c) At least one person who meets the requirements for a lead teacher shall be responsible for each group of children as defined in Rule .0102 of this ~~Subchapter~~ Chapter except as provided in Paragraph (b) of this Rule. This requirement may be met by having one or more persons who meet the requirements for a lead teacher responsible for the same group of children. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation, based on a normal working schedule and may include times when the lead teacher may not be in attendance due to circumstances such as illness or vacation.

(d) A teacher is a person who is responsible to the lead teacher and assists with planning and implementing the daily program.

(e) No aide or aides shall have responsibility for a group of children except as provided in Paragraph (b) of this Rule.

(f) Children shall be adequately supervised at all times. Adequate supervision shall mean ~~that that: staff interact with the children while moving about the indoor or outdoor area, and are able to hear and see the children at all times, except when emergencies necessitate that direct supervision is impossible for brief periods of time.~~

- (1) Staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render immediate assistance;
- (2) Staff must interact with the children while moving about the indoor or outdoor area;
- (3) Staff must know where each child is located and be aware of children's activities at all times;
- (4) Staff must provide supervision appropriate to the individual age, needs and capabilities of each child; and
- (5) All of the conditions in this Paragraph shall apply except when emergencies necessitate that direct supervision is impossible for brief periods of time. Documentation of emergencies shall be maintained and available for review by Division representatives upon request.

(g) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

~~(e)(h)~~ For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

~~(h)(i)~~ When a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child's face.

Authority G.S. 110-85(1); 110-91(7),(8); 143B-168.3.

SECTION .0900 - NUTRITION STANDARDS

10A NCAC 09 .0901 GENERAL NUTRITION REQUIREMENTS

(a) Meals and snacks served to children in a child care center shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102(1) of this Chapter.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the center, except in centers with a licensed capacity of 3 to 12 children located in a residence. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu.

(c) Children ages two years and older shall be served either skim or low fat milk.

~~(e)(d)~~ When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the center must provide additional food necessary to meet those requirements. Food brought from home may reflect cultural and ethnic preferences, such as a vegetarian diet.

~~(d)(e)~~ Drinking water must be freely available to children of all ages. Drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the Commission for Public Health.

- ~~(e)~~(f) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.
- ~~(f)~~(g) The food required by special diets for medical, religious or cultural reasons, may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the center and written instructions shall be provided by the child's parent, health care professional, or a licensed dietician/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the center.
- ~~(g)~~(h) Food and beverages with little or no nutritional value served as a snack, such as cookies, chips, donuts, sweets, fruit drinks, soft drinks, etc., shall be available only for special occasions.
- (i) Children shall not be served flavored milk or sugary drinks, including Kool-Aid, fruit drinks, sports drinks, sweet tea and soda. No more than 6 ounces of 100 percent fruit juice shall be offered per day.
- (j) Staff shall role model appropriate eating behaviors by not consuming foods or beverages with little or no nutritional value in the presence of children in care.
- ~~(h)~~(k) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet in a place other than a bathroom that is shielded from view by staff and the public which may be used by mothers while they are breastfeeding or expressing milk.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

10A NCAC 09 .0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS

- (a) The parent or health care provider of each child under 15 months of age shall provide the center an individual written feeding schedule for the child. This schedule must be followed at the center. This schedule must include the child's name, be signed by the parent or health care provider, and be dated when received by the center. Each infant's schedule shall be modified in consultation, with the child's parent and/ or health care provider, to reflect changes in the child's needs as he or she develops. The feeding instructions for each infant shall be posted for quick reference by the caregivers, except in centers licensed for three to 12 children located in a residence.
- (b) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. Each child will be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.
- (c) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietician/nutritionist.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

SECTION .1500 - TEMPORARY CARE REQUIREMENTS

10A NCAC 09 .1501 SCOPE

~~The regulations in this Section apply to centers offering temporary care exclusively and to the temporary care component of any other licensed child care center. All regulations in this Subchapter pertaining to full-time child care shall apply to temporary care arrangements, as defined in Rule .0102 of this Subchapter, except as provided in this Section.~~

Authority G.S. 110-91; 143B-168.3.

10A NCAC 09 .1502 MEDICAL EXAMINATION

~~A medical examination report shall not be required for any child who receives only drop-in care, as defined in Rule .0102 of this Subchapter, or for any school-aged child who receives before/after school care only.~~

Authority G.S. 110-91(1); 143B-168.3.

10A NCAC 09 .1503 BEDS, COTS, MATS AND LINENS

- ~~(a) Neither a bed, cot, or mat and linen shall be required for any school-aged child who receives either before or after school care or both, or seasonal care only.~~
- ~~(b) When drop-in care is provided in combination with other types of care, a bed, cot, or mat must be provided for each preschool-aged child present during rest time.~~
- ~~(c) Beds, cots, or mats do not have to be assigned to, or labeled for, each individual child.~~
- ~~(d) Each bed, cot, or mat must be sanitized, in a manner approved by the local health department, after being used by one child and before being used by a different child.~~

Authority G.S. 110-91(1); 143B-168.3.

10A NCAC 09 .1504 ATTENDANCE RECORDS

~~Accurate daily records showing the arrival and departure times of each child receiving drop-in care shall be kept. When drop-in care is provided in combination with other types of care, the daily attendance records of children in the drop-in component shall be maintained separately from the attendance records of children in other components.~~

Authority G.S. 110-91(9); 143B-168.3.

10A NCAC 09 .1506 OUTDOOR PLAY AREA

~~If a child care center provides part time or drop in care exclusively, the center may choose to provide 35 square feet per child of indoor space in lieu of the outdoor play area as long as no child remains in care for more than a four-hour period per day.~~

Authority G.S. 110-91; 143B-168.3.

SECTION .1700 - FAMILY CHILD CARE HOME REQUIREMENTS

10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME

(a) Any person who plans to operate a family child care home shall apply for a license using a form provided by the Division. The applicant shall submit the completed application, which complies with the following, to the Division:

- (1) Only one licensed family child care home shall operate at the location address of any home.
- (2) The applicant shall list each location address where a licensed family child care home will operate.

(b) When a family child care home will operate at more than one location address by cooperative arrangement among two or more families, the following procedures apply:

- (1) One parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the applicant.
- (2) The coordinating parent shall know the current location address at all times and shall provide the information to the Division upon request.

(c) The applicant shall assure that the structure in which the family child care home is located complies with the following requirements:

- (1) The structure complies with the North Carolina Building Code for family child care homes or has written approval for use as a family child care home by the local building inspector.
- (2) The structure meets North Carolina Residential Building Code or is a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/Mobile Home Regulations adopted by the NC Department of Insurance. Exception: Single wide manufactured homes are limited to a maximum of three preschool-age children (not more than two may be two years of age or less) and two school-age children.
- (3) All children are kept on the ground level with an exit at grade.
- (4) All homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.
- (5) All homes are provided with at least one five pound 2-A: 10-B: C type extinguisher readily accessible for every 2,500 square feet of floor area.
- (6) Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved by the Department of Insurance for that installation and are provided with a protective screen attached securely to supports are allowed. Unvented fuel burning heaters and portable electric space heaters of all types are prohibited.
- (7) All indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees.
- (8) Hot pipes or radiators which are hot enough to be capable of burning children and are accessible to the children are covered or insulated.

~~(9) Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.~~

(d) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

- (1) a copy of the certified criminal history check from the Clerk of Superior Court's office in the county or counties where the applicant and any household member(s) over age 15, have resided during the previous 12 months;
- (2) a copy of documentation of completion of a first aid and cardiopulmonary resuscitation (CPR) course;
- (3) proof of negative results of the applicant's tuberculosis test completed within the past 12 months;
- (4) a completed health questionnaire;
- (5) a copy of current pet vaccinations for any pet in the home;
- (6) a negative well water bacteriological analysis if the home has a private well;
- (7) copies of any inspections required by local ordinances; and
- (8) any other documentation required by the Division according to the rules in this Section to support the issuance of a license.

(e) Upon receipt of a complete application and supporting documentation, a Division representative shall make an announced visit to each home unless the applicant meets the criteria in Paragraph (g) of this Rule to determine compliance with the requirements, to offer technical assistance when needed, and to provide information about local resources. The issuance of a license applies as follows:

- (1) If all applicable requirements of G.S. 110 and this Section are met, a license shall be issued;
- (2) If the applicable requirements are not met but the applicant has the potential to comply, the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements are met within the established time period, a license shall be issued; or
- (3) If all applicable requirements are not met or cannot be met within the established time, the Division shall deny the application. Final disposition of the recommendation to deny is the decision of the Division.

(f) The Division shall allow the applicant to temporarily operate prior to the Division representative's visit described in Paragraph (e) of this Rule when the applicant is currently licensed as a family child care home operator, needs to relocate, and notifies the Division of the

relocation; and the Division representative is unable to visit before the relocation occurs. A person shall not operate until he or she has received from the Division either temporary permission to operate or a license.

(g) When a person applies for a family child care home license, the Secretary may deny the application for the license under the following circumstances:

- (1) if any child care facility license previously held by that person has been denied, revoked or summarily suspended by the Division;
- (2) if the Division has initiated denial, revocation or summary suspension proceedings against any child care facility license previously held by that person and the person voluntarily relinquished the license;
- (3) during the pendency of an appeal of a denial, revocation or summary suspension of any child care facility license previously held by that person;
- (4) if the Division determines that the applicant has a relationship with an operator or former operator who previously held a license under an administrative action described in Subparagraph (g)(1), (2), or (3) of this Rule. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:
 - (A) would participate in the administration or operation of the facility;
 - (B) has a financial interest in the operation of the facility;
 - (C) provides care to the children at the facility;
 - (D) resides in the facility; or
 - (E) would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
- (5) based on the person's previous non-compliance as an operator with the requirements of G.S. 110 and this Chapter; or
- (6) if abuse or neglect has been substantiated against the person, or if abuse or neglect was substantiated against a household member.

(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:

- (1) any documentation provided by the applicant which describes the steps the applicant will take to prevent reoccurrence of noncompliance issues which led to any prior administrative action taken against a license previously held by the applicant;
- (2) training certificates or original transcripts from a nationally recognized regionally accredited institution of higher learning related to providing quality child care for any coursework, and which were taken subsequent to any prior administrative action taken against a license previously held by the applicant. Nationally recognized means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the six regional accrediting bodies;
- (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
- (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and
- (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.

(i) The license shall not be bought, sold, or transferred from one individual to another.

(j) The license is valid only for the location address listed on it.

(k) The license must be returned to the Division in the event of termination, revocation, suspension, or summary suspension.

(l) The license shall be displayed in a prominent place that parents are able to view daily and shall be shown to each child's parent when the child is enrolled.

(m) A licensee shall notify the Division whenever a change occurs which affects the information shown on the license.

Authority G.S. 110-85; 110-88(5); 110-91; 110-93; 110-99; 143B-168.3.

10A NCAC 09 .1706 NUTRITION STANDARDS

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102(1) of this Chapter.

(b) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide the additional food necessary to meet those requirements. Food brought from home may reflect cultural and ethnic foods, such as vegetarian preferences.

(c) The food required by special diets for medical, religious or cultural reasons, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietician/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(d) Food with little or no nutritional value served as snack, such as cookies, chips, donuts; etc, shall be available only for special occasions.

(e) For children ages 24 months and older a meal or snack must be provided at least every four hours.

- (f) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops.
- (g) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.
- (h) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.
- (i) Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.
- (j) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietician/nutritionist.
- (k) Drinking water must be freely available and offered to children on a frequent basis.
- (l) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used.
- (m) Children ages two years and older shall be served either skim or low fat milk.
- (n) Children shall not be served flavored milk or sugary drinks, including Kool-Aid, fruit drinks, sports drinks, sweet tea and soda. No more than 6 ounces of 100 percent fruit juice shall be offered per day.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS

(a) The operator shall provide the following on a daily basis for all children in care:

- ~~(1)~~ ~~Meals and snacks which comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food and number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102 of this Chapter;~~
- ~~(2)~~ ~~A meal or snack at least every four hours;~~
- ~~(3)~~ ~~Drinking water freely available to children;~~
- ~~(4)~~(1) Developmentally appropriate equipment and materials for a variety of outdoor activities which allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;
- ~~(5)~~(2) An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest comfortably. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). Linens shall be changed weekly or whenever they become soiled or wet;
- ~~(6)~~(3) A quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents shall be notified immediately if their child becomes too sick to remain in care;
- ~~(7)~~(4) Adequate supervision as described below:
 - (A) For children who are awake, staff shall interact with the children while moving about the indoor or outdoor area, and shall be able to hear and see the children at all times, except when emergencies necessitate that direct supervision is impossible for brief periods of time; and
 - (B) For children who are sleeping or napping, the staff are not required to visually supervise them, but shall be able to hear and respond quickly to them. Children shall not sleep or nap in a room with a closed door between the children and the supervising staff. The staff shall be on the same level of the home where children are sleeping or napping.
- ~~(8)~~(5) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
- ~~(9)~~(6) The opportunity each day for each child under the age of 12 months to play while awake while positioned on his or her stomach;
- ~~(10)~~(7) Developmentally appropriate activities as planned on a written schedule. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule. The written schedule shall:
 - (A) Show blocks of time usually assigned to types of activities and include periods of time for both active play and quiet play or rest;
 - (B) Be displayed in a place where parents are able to view;
 - (C) Reflect daily opportunities for both free choice and guided activities;
 - (D) Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit; and
 - (E) Include a daily gross motor activity which may occur indoors or outdoors; and
- ~~(11)~~(8) When screen time, including videos, video games, and computer usage, is provided, it shall be:
 - (A) Offered only as a free choice activity,

(B) Used to meet a developmental goal, and

(C) Limited to no more than two and a half hours per week for each child two years of age and older.

Usage time periods may be extended for specific special events, projects, occasions such as a current event, homework, on-site computer classes, holiday; and birthday celebration. Screen time is prohibited for children under the age of two years. The operator shall offer alternate activities for children under the age of two years.

~~(b) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used. Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.~~

~~(c) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.~~

~~(d) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops.~~

Authority G.S. 110-85; 110-88; 110-91(2),(12).